

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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for March 31, 2004 PLANNING COMMISSION MEETING

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**P.A.S.:**        **Comprehensive Plan Amendment 03007**

**PROPOSAL:**        Text to remove impact fee language on page F 71.

**CONCLUSION:**        The study is complete and different language is appropriate.

<b><u>RECOMMENDATION:</u></b>	Approve alternative language attached
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**GENERAL INFORMATION:**

**HISTORY:** On December 19, 2003, the County Board requested this item be removed from pending and moved forward. The Cost of Rural Services Study was completed in December 2003. On May 21, 2003, the Planning Commission put this request on hold until the completion of the acreage studies. In February 2003, the Lancaster County Board requested an amendment to the Lincoln Lancaster County Comprehensive Plan relative to impact fees and other development exactions.

**ANALYSIS:**

See attached Comprehensive Plan Amendment form.

Prepared by:

Mike DeKalb, 441-6370, [mdekalb@ci.lincoln.ne.us](mailto:mdekalb@ci.lincoln.ne.us)

**DATE:** February 12, 2004

**APPLICANT:**        Mike DeKalb  
City County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508  
(402) 441-6370

**County Impact Fee Determination  
Lancaster County Board**

Applicant	Location	Proposal
County Board	Text on page F 71	Remove determination of county impact fees
<b>Recommendation:</b> Approve alternative language. <i>This is a revised recommendation as of February 2004</i>		

**Status/Description**

In a February 21, 2003 memo the Lancaster County Board proposed the following revision to page F 71 in the section on "Guiding Principles for Rural Areas":

~~"When the independent study to quantify and qualify the positive and negative economics of acreage development is completed, the county should determine if an impact fee or other development exactions are needed to be sure acreage development is paying its "fair share" of costs. An independent study to quantify and qualify the positive and negative economics of acreage development will be performed."~~

**Comprehensive Plan Implications**

In the memo, the County Board stated their belief that it was premature to refer to impact fees and other development exactions in the County in the Comprehensive Plan, and that these references may give the impression a policy decision has already been made to implement these fees on acreages.

In December 2003 the final report entitled "*Cost of Rural Services Study*" was provided to the City of Lincoln and Lancaster County. That report indicated that only the agriculture land use is paying more in taxes then it is requiring in services. The report also stated that there is a \$5.6 Million transfer of resources from the incorporated areas to the unincorporated areas. The report suggested several means of addressing this transfer, including *cost reduction techniques* such as concentrating development on paved roads, using large lot zoning, or designation of "rural - unpaved roads" and *cost recovery techniques* such as a property tax surcharge on properties in the unincorporated areas or developer exactions/impact fees on new development.

The report attempted to account for the fact that some of the traffic on County roads is generated by other sources in addition to the uses in the unincorporated areas, such as residents of Lincoln, the 12 other incorporated towns, and the counties abutting Lancaster County. Recognizing that the unincorporated area taxpayers should only be expected to shoulder their impact of improving and

February 11, 2004

maintaining County roads. However, the County Engineer has questioned some assumptions in the report (see attached memo), and one County Board member expressed similar concerns in workshop sessions.

**Conclusion:** Deny the proposed amendment and approve alternative language.

Now that the study on the "positive and negative economics of acreage development" has been completed, as directed by the Comprehensive Plan, the year-old language recommended by the County Board is outdated. The County Board did not explain its request to bring the pending amendment forward at this time. They may feel that the study does not accurately portray the economics of acreage development, although they did not suggest any additional studies. Or the Board may have decided that, regardless of the study results and suggestions, they simply do not want to pursue a policy that would shift more of the cost of rural services to rural land developers and acreage lot buyers.

Planning staff believes that the Cost of Services study provides a good basic picture of the fiscal impacts of rural development, and that implementing impact fees or other cost recovery techniques makes sense as part of an overall city-county development strategy. With the City of Lincoln facing formidable challenges to adequately fund road improvements that are needed for continued growth, both boards need to carefully target where tax resources are directed and search for new revenue sources.

However, it does seem premature for the County Board to proceed with implementing impact fees at this time, or even debating their merits, because of the current lawsuit by local homebuilders who are questioning the City of Lincoln's legal authority to enact these fees. The district court is expected to decide on this issue in the next two or three months. But regardless of the decision, it is likely to be appealed to higher courts, and it could be one or two years before the issue is settled. **Given this situation, staff recommends deleting the language in the plan that calls for a study to be done, and replacing it with the following: "The study on the economics of acreage development has been completed. The County Board should proceed with cost-reducing policies as suggested in the study: controlling densities, focusing most new development along existing paved roads, and declining to pave road segments in perimeter areas that have low volumes and serve mostly out of county residents. However, until the legality of impact fees in Nebraska is determined by the courts or by new legislation, the County Board should not proceed with debating their merits or enacting them."**



**COUNTY-CITY BUILDING**

555 South 10th Street, Room 110  
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E-mail: commish@co.lancaster.ne.us

**December 19, 2003**

**COMMISSIONERS**

Bernie Heier  
Larry Hudkins  
Deb Schorr  
Ray Stevens  
Bob Workman

*Chief Administrative Officer*  
Kerry P. Eagan

*Deputy Chief Administrative Officer*  
Gwen Thorpe

**Mr. Marvin Krout, Director  
Lincoln Lancaster Planning Department  
555 So. 10<sup>th</sup> Street, Room 213  
Lincoln, NE 68508**

**RE: Comprehensive Plan Amendment No. 03007**

**Dear Marvin:**

On May 21, 2003, Comprehensive Plan Amendment No. 03007 was placed on pending by the Planning Commission until completion of the rural acreage studies called for in the 2025 Lincoln/Lancaster County Comprehensive Plan. The Build Through Acreages Study and the Cost of Rural Services Study have been completed, and the County Board is interested in moving forward with Amendment No. 03007.

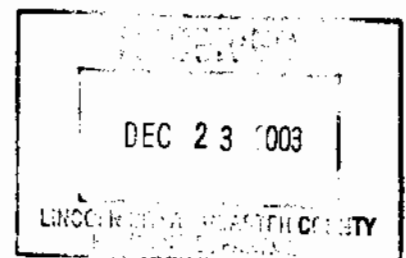
Accordingly, the Board is requesting that comprehensive Plan Amendment No. 03007 be removed from the pending list and scheduled for action by the Planning Commission.

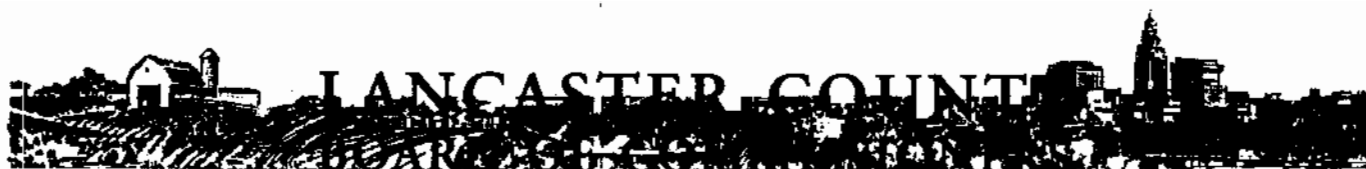
Please don't hesitate to contact me if you have any questions regarding this request. As always, the Board appreciates your assistance.

Sincerely,

  
Kerry P. Eagan  
Chief Administrative Officer

cc: County Board  
Mayor Coleen Seng  
City Council  
Gwen Thorpe





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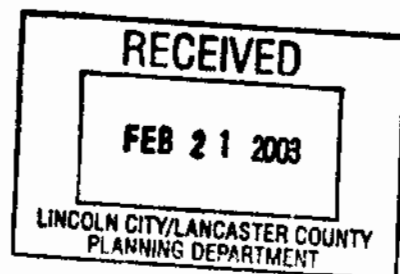
*Deputy Chief Administrative Officer*  
Gwen Thorpe

**February 21, 2003**

Marvin Krout, Director  
Lincoln-Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

**Re: Proposed Amendment to the Comprehensive Plan**

**Dear Marvin:**



The Lancaster County Board of Commissioners hereby submits the following proposal to amend the Lincoln-Lancaster County Comprehensive Plan:

Under Guiding Principles for Rural Areas, the first sentence of the last paragraph, located on p. F71, should be amended to read, "An independent study to quantify and qualify the positive and negative economics of acreage development will be performed."

The County Board believes it is premature to refer to impact fees and other development exactions in the Comprehensive Plan. The Board is concerned these references give the impression a policy decision has already been made to implement these fees on acreages.

If you have any questions regarding this proposed amendment, please don't hesitate to contact us. As always, your assistance is greatly appreciated.

Sincerely,

Ray Stevens  
Vice Chairman

cc: County Board  
Gary Lacey, Lancaster County Attorney  
Mike DeKalb, Planning Department

Lancaster

DON R. THOMAS - COUNTY ENGINEER

County

Engineering

Department

DEPUTY- LARRY V. WORRELL  
COUNTY SURVEYOR



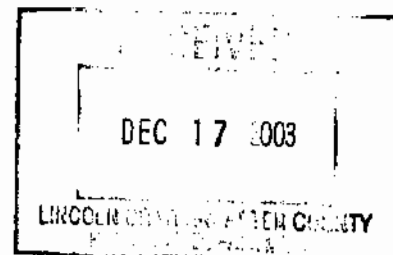
December 16, 2003

**TO:** Marvin Krout, Director of Planning  
**FROM:** Don Thomas Don Thomas  
**SUBJECT:** Final report on Cost of Rural Service Study

Marvin, I have reviewed the final report on the referenced subject and would offer just a couple of comments. The final report does mention ("based on information obtained from the County Engineer's Office") that the external trips account for about 20% of the total O & M costs for roads. I am unsure where this information would have been obtained; but, it is not a statistic that we would have available nor deem as anything useful. The consultant also concludes that the amount of external traffic can only be obtained from an O & D study which was not a part of his charge in this study. We do agree with this statement; although, it would be extremely difficult to perform over the entire County Road System. The report does depend on assumptions that make it difficult to reach a valid conclusion.

Your memorandum states that —"the key findings of the report remain essentially as previously reported", so my comments of September 30<sup>th</sup> remain unchanged and the cost of rural services concluded in this report is of little value.

DEPLANLIN/KROUT let re final report - cost of Rural service study - 12-16-03



Lincoln



Nebraska's Capital City

May 27, 2003

Ray Stevens, Vice-Chair  
Lancaster County Board of Commissioners

RE: **Comprehensive Plan Amendment No. 03007**  
(County impact fees)

Dear Mr. Stevens:

On May 21, 2003, the Lincoln-Lancaster County Planning Commission held public hearing on the above referenced comprehensive plan amendment request to remove a statement relating to future determination of county impact fees, and voted 5-1 to defer any further action on this amendment request until completion of the Rural Cost of Service Study (Carlson, Larson, Duvall, Taylor and Steward voting 'yes'; Schwinn voting 'no'; Krieser and Bills-Strand absent).

Therefore, this application has been placed on the Planning Commission's pending list.

If you have any questions, please contact me at 441-6365.

Sincerely,

Jean Walker  
Administrative Officer

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cc: County Board  
Lancaster County Attorney  
Joe Gabig, 4835 Knox St., 68504-2154



COMPREHENSIVE PLAN AMENDMENT NO. 03008  
COMPREHENSIVE PLAN AMENDMENT NO. 03010  
COMPREHENSIVE PLAN AMENDMENT NO. 03014  
COMPREHENSIVE PLAN AMENDMENT NO. 03016



Joe Gabig  
<jgabig@alltel.net>  
05/17/2003 09:25 AM

To: pian@cl.lincoln.ne.us  
cc:  
Subject: Comp Plan Amendments

cc: Planning Commission  
Applicants  
Staff

Dear Planning Commission Members,

This note is in regards to several amendments to the Comprehensive Plan you will be considering at your Public Hearing on Wednesday, 21 May 2003.

Amendment # 7: Impact Fee Study in the county. It seems to be important to learn about how Impact Fees could or should be instituted in the County now that they are a fact of life in the City. It is not appropriate to stick our heads in the sand.

# 8: It is not longer "the right thing to do" to allow building in the flood plain. This is true to protect present and future development in the Steven's Creek watershed - that is to say that other property will be affected in a negative way if this amendment is approved. Do NOT set the stage for huge, expensive future flood abatement projects. No amount of promised future jobs or development or income can justify this approach to land management. Kill this amendment.

# 10: Please place the professional judgment of the Game and Parks Commission (ltr dated 27 March 2003) in high regard. There seems little regard for important natural resources by this proposal. I am disappointed in Mr. Hampton's approach. It is time for my Planning Commission to not follow every lead offered by the development community. Kill this amendment. (By the way, it is apparent the Mr. Hampton has made an assumption: there is a sign at 27th and Arbor Rd that declares the area available for commercial development.)

#14: Simply a bad idea.. the Comp Plan took all the features of development into account for the area and the conclusions were much better than this latter idea. Was it THAT long ago that you have forgotten this - if what was learned while building the Comp Plan cannot be remembered for eight months, you and a bunch of folks (including me) wasted a great deal of time putting it together. Do NOT approve this amendment..

#16: This proposal is most troubling. The narrative mis-states the truth and references an expired COE permit as tho it were still valid. One only has to stand on this property for a few minutes to realize that it is at the low point of surrounding land. If attempts to move water off of this land fast enuf to prevent flooding (which may in itself be impossible in the "right" storm event), either the erosion will be extremely significant or there will be much concrete which will ultimately increase erosion off site. It is important to retain the current value of this piece of land for its flood and sediment control.

We cannot continue to erode these critical values for the sake of making a few more dollars for a few more people. Salt Creek and our downstream neighbors cannot continue to absorb this assault. Again, I ask that you place significant weight on the viewpoint expressed by Game and Parks in the 27 March 2003 letter. It is high time to turn the tide against this kind of proposal. Kill this amendment.

Thank for the opportunity to comment.

Joe Gabig

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